



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION OF

Confirmation No.: 4619

MOS et al.

Group Art Unit: 2125

Application No.: 10/822,735  
(Parent Appln. No.: 10/079,826)

Examiner: KOSOWSKI, ALEXANDER J.

Filed: April 13, 2004

Title: ALIGNMENT SYSTEM FOR LITHOGRAPHIC APPARATUS FOR MEASURING A POSITION OF AN ALIGNMENT MARK

February 18, 2005

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**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

Hon. Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22323-1450

Sir:

While the Applicants gratefully acknowledge the Notice of Allowance for the present application, Applicants wish to comment on the Examiner's Reasons for Allowance to clarify certain points.

The Examiner states that in the preliminary amendment filed April 30, 2004, the Applicant has added several new paragraphs to the specification and as a result the Examiner considers this application a Continuation-in-Part and not a straight Continuation as filed. Applicants respectfully disagree with the Examiner's conclusion.

In the preliminary amendment filed April 30, 2004, the Applicants have amended the specification merely to expressly include a portion of the subject matter disclosed in the U.S. Patent 4,778,275 which was incorporated in the parent Application 10/079,826 by reference. The several paragraphs incorporated in the specification correspond to a portion of the subject matter disclosed in U.S. patent No. 4,778,275. Because U.S. patent No. 4,778,275 was incorporated by reference in the parent Application, the portion of U.S. Patent No. 4,778,275

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Attorney docket: 81468-308137

that is added to the specification in the preliminary amendment filed April 30, 2004 does not constitute a new matter.

According to MPEP 2163.07(b) "The information incorporated is as much a part of the application as filed as if the text was repeated in the application, and should be treated as part of the text of the application as filed. Replacing the identified material incorporated by reference with the actual text is not new matter."

Therefore, Applicants respectfully request that the present application be considered as a continuation application of parent patent application 10/079,826 and thus be given the priority date of the parent patent application.

Respectfully submitted,

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